

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

OWP No. 1242/2012 CMA No. 1726/2012

Date of decision: 26.09.2012

Masoom Bhattacharya

v.

State of J&K and ors.

Coram:

Hon'ble Mr. Justice Muzaffar Hussain Attar, Judge

1. Whether approved for Law Journal? **Yes**

2. Whether approved for publication in Press?

Appearing counsel:

For appellant(s) : Mr. Sudershan Sharma, Advocate

For respondent(s): Mr. W. S. Nargal, Advocate

Ms. Arti Anand, Advocate

(Oral)

1. Petitioner, undisputedly, has obtained her graduation degree in September, 2007 through Study Centre run by the Punjab Technical University. Petitioner responded to the notification dated 14.06.2011 issued by the University of Jammu and was admitted to undergo B. Ed. course for the year 2011-12 and was allotted to M.I.E.R. College of Education, B. C. Road Jammu. After completion of said course, petitioner submitted an application for taking her examination. Examination fee was also deposited. Petitioner in terms of communication dated 1st August, 2012 was informed by the Assistant Registrar (CDC), University of Jammu that her admission for undergoing the B.

Ed. Course for the session 2011-12 stands cancelled for the reason that she had passed graduation from Study Centre of Punjab Technical University, which was banned by the University of Jammu. It is this communication which the petitioner has challenged in this writ petition.

2. On notice, respondent-University has filed objections/reply affidavit.
3. Learned counsel for the petitioner submitted that in terms of SRO No. 339 of 2005 dated 20.12.2005, petitioner, who was already enrolled to undergo graduation course in the Study Centre was protected from the rigor of law and no adverse action could be taken against her. Learned counsel submitted that after admitting the petitioner to B. Ed. Course and allowing her to complete the course of one year, respondent-University could not cancel her admission. Learned counsel submitted that petitioner has been subjected to incalculable sufferings and her legal rights have been infringed.
4. Learned counsel appearing for the respondent-University submitted that the University vide notification dated 05.10.2005 had informed all concerned that a decision was taken by the Standing

Committee of the Academic Council that any courses run by Study Centres/Franchises of any University in the country except IGNOU were not recognized. Learned counsel submitted that since petitioner had obtained her graduation degree from Study Centre not recognized by the respondent-University, her admission to undergo B.Ed. course was cancelled and even notice has been issued to the concerned Head Assistant to explain his position as to how the provisional admission was granted to the petitioner when she was not eligible to undergo B.Ed. course. Notice dated 21.06.2012 issued to Sh. S. S. Heer, Head Assistant has been placed on record along with the objections.

5. The University of Jammu in terms of notification dated 05.10.2005 had notified all concerned that the course run by Study Centres/Franchises of any university in the country except IGNOU are not recognized. Petitioner, admittedly, at that time was undergoing graduation course in a Study Centre not recognized by the University of Jammu. Petitioner, in this admitted fact situation, was not eligible for being admitted to undergo B. Ed. Course, for which, admissions are being made by the University of Jammu and degrees

are also being awarded by it. The mistake committed by subordinate official of the University in not properly scrutinizing the application form of the petitioner could not prevent the respondent-University to cancel the admission of the petitioner. Respondent-University is bound by its own notification dated 05.10.2005. Decisions of the academic institutions have to be implemented and University authorities can not be directed to proceed in breach of their own decisions.

6. Notification dated 05.10.2005 has not been challenged in this writ petition. The impugned communication is only an off-shoot of the aforementioned notification. In absence of challenge to notification dated 05.10.2005, impugned communication could not be challenged. Petitioner, in the aforementioned circumstances, has failed to make out a case for grant of relief to her in these proceedings.
7. True it is that the petitioner has been made to suffer because of the mistake allegedly committed by some official of respondent-University. The claim of the petitioner is that her one year has been wasted, besides, depriving her of substantial amount on account of admission fee and examination fee. This

aspect would require to be considered by the appropriate Forum as and when such an issue is raised for grant of appropriate relief. Such an issue cannot be adjudicated upon, at this stage, in these proceedings.

8. For the above stated reasons, this petition, being meritless, is dismissed along with all connected CMA(s).

(Muzaffar Hussain Attar)
Judge

JAMMU
26.09.2012
Paramjeet